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Update on Immigration and Refugee Issues

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Following is a statement by Jonathan Moore, U.S. Coordinator for Refugee Affairs, before the Subcommittee on Immigration, Refugees, and International Law of the House Judiciary Committee, Washington, D.C., April 6, 1989.

The occasion for this important hearing is the surge in emigration from the Soviet Union. The Administration views this phenomenon as a signal success for the sustained, bipartisan policy of the United States toward the Soviet Union in the postwar era, a policy which emphasizes human rights for Soviet citizens and specifically calls for freedom of emigration. I am pleased to have the opportunity today to review the policy initiatives the Administration is taking in response to the current unprecedented rate of application by Soviet emigrants for resettlement in the United States. In particular, as U.S. Coordinator for Refugee Affairs, I wish to present formally the President's proposal to raise the refugee admissions ceiling for FY [fiscal year] 1989. Finally, in response to the subcommittee's invitation, we will offer some preliminary views on the bill introduced by Mr. Berman and on your own draft bill, Mr. Chairman [Bruce A. Morrison].

Before moving to these specific matters, I would like to report briefly on the major refugee situations in the world with which we are now engaged. Our policies for dealing with Soviet emigration cannot be developed in isolation from other refugee needs, both for domestic resettlement here and for international assistance abroad. Our international refugee policies and responsibilites are linked intimately with basic bilateral and multilateral foreign policy objectives. And, with limited resources to meet multiple refugee problems, the United States cannot respond to individual demands without maintaining equity in our humanitarian responses worldwide.

Major Refugee Issues

There are some 13 million people in the world who have fled persecution and armed conflict, often combined with natural disasters, and less than 1% of them in a given year will be resettled in any third country.

In **Africa,** there is the all-too-familiar catalogue of intractable, long-term populations of refugees and displaced persons, but also a few hopeful signs. In the past 5 years, over 1 million Mozambicans have fled the RENAMO [Mozambique National Resistance Movement] insurgency and its attendant terrors for neighboring nations; tiny Malawi alone gives shelter to some 650,000 of them. Ethiopia—which itself produces refugees and displaced persons from the long-term, civil conflict there—shelters an estimated 350,000 Sudanese and as many as 400,000 Somalis fleeing civil conflict within their countries. On the hopeful side, most of those who fled last summer's ethnic violence in Burundi have now returned home, and there are hopes that—under terms of recent peace agreements—thousands of Namibians will begin to return home from their long-term exile.

In **East Asia,** in spite of years of international assistance, the fate of the 320,000 Khmer in camps along the Thai-Cambodian border remains precarious, and those in camps controlled by the Khmer Rouge are particularly vulnerable to the cross-border conflict between Khmer Rouge combatants and Vietnamese troops. The upcoming international conference on Indochinese refugees will try to put in place a new international policy consensus among the refugee-producing, first-asylum, and resettlement and donor nations. We seek a resolution which preserves first asylum and offers open access to safe and orderly emigration as a true alternative to the dangerous boat trips of Vietnamese asylum seekers that continue today at the highest level in many years.

The situation in **Central America** is as troublesome as ever. The enemies are repression and armed conflict, but they are also desperate poverty and the desire for a better life. All four—usually in some combination—have produced large-scale displacement within the region and a particularly difficult situation along our southern border as thousands flee toward the United States. Here in particular the recognized refugee and displaced person population—that is, those in camps and given assistance by the international community—is only part of a much bigger migration picture.

In the **Near East and South Asia,** there are two refugee populations constantly in the news whose long-term fate remains unclear. After a decade in

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temporary asylum, and even after the withdrawal of Soviet troops, it remains to this moment unclear when the long-awaited return to Afghanistan of the 3 million refugees in Pakistan will begin. And the deprivation of the Palestinian refugees in the occupied territories is now compounded by the urgent need for medical and social services resulting from the response to the *intifada* [uprising].

Finally, there is a rather different challenge in **Europe.** The loosening of exit controls in the Soviet Union and some of the countries of Eastern Europe is first of all a victory for their nationals. It is also a tribute to the long-term, patient insistence of the United States and others that those countries are beginning to recognize one of the most fundamental human rights: the right to leave and enter one's country at will. In the short term, however, this very success has led to enormous pressures both on our own refugee admissions system and on the asylum policies of the nations of Western Europe.

Our challenge in dealing with new refugee crises around the world, as well as with the continuing tragedy of longstayers in refugee camps—a tragedy especially for the children whose future lives are formed there—is that, despite our far-flung energies and strong leadership in humanitarian assistance to refugees, we face both inadequate international resources to meet all of the needs and the moral dilemma of deciding who needs help the most.

U.S. Response to Soviet Emigration

In the past year we have witnessed the effects of a major change in the emigration policy of the Soviet Union. Persons, or categories of persons, who had never before been allowed that opportunity became eligible to apply for exit permits to the United States, to Israel, to Germany, and elsewhere. Applications at Embassy Moscow have soared from a rate of about 1,500 per month in FY 1988 to a current rate of upward of 4,000 a month. Simultaneously, the number of Soviets entering Austria with permission to go to Israel, almost all of whom opt to apply to the United States, has more than tripled in the past 6 months, from less than 1,000 per month in FY 1988 to between 3,000 and 4,000 per month since December. These are far and away the highest rates in this decade, and Congress and the Administration can share credit for the role the United States has played in bringing about this new Soviet emigration policy.

Our national, bipartisan policy vis-a-vis the Soviet Union places the highest emphasis on human rights, including the right of a citizen to travel freely and to emigrate from his country. The success of this leadership, however, does not equate immediately or easily with the more complex reality which the Congress and the executive branch share—and which cuts across their various jurisdictions—of U.S. immigration and refugee policies defined in specific statutes that set eligibility standards, prescribe a process to establish annual numerical ceilings, and appropriate funds for federally supported services.

Let me briefly recount the steps the Administration has taken to date.

First, in December, we advised Congress of a decision to reallocate 7,000 refugee admissions numbers from other regions to the Soviet Union, as an interim measure, in order to ensure that all regional programs could continue without interruption. Along with the frontloading of admissions numbers earlier into the fiscal year, this enabled us to maximize the use of numbers available under the worldwide ceiling and to continue processing all groups, including Soviet applicants, at rates which minimized the backlog problem. We also instituted humanitarian parole and encouraged private funding as further efforts to manage the increased pressures in the short-term.

Second, we have been addressing the processing capacity in Rome and Moscow to meet the increased workload. INS [Immigration and Naturalization Service] officer strength is obviously a critical variable in determining how many applicants can be processed per month, but it is not the only one. Consular staff, other embassy support personnel, practices of host nations, and the ability of the voluntary agencies are also important factors in our efforts to keep up with an increasing flow of applicants. In Moscow, as the subcommittee knows, we face also the particular impediment of the bilateral personnel ceiling, within which we have to find space not only for INS and consular officers, but also for American citizen clerical and support personnel.

Third, we have been working hard on an initiative to create a new provision in U.S. immigration law to give the United States the flexibility to admit for permanent resettlement persons of humanitarian and foreign policy concern who do not qualify under current immigrant or refugee provisions. Secretary Shultz and [INS] Commissioner Nelson testified to the need for such a provision in the consultations hearings last September, and this Administration sent its proposed legislation to Congress yesterday. Under our proposal, the beneficiary groups would be identified through an annual consultative process between the executive branch and Congress.

The Administration has been concerned, as have you, that the use of the Attorney General's parole authority as an avenue of admission to the United States for applicants who are not found eligible for refugee status, although a valuable interim resource and the only statutory available, is inadequate. The new legislation seeks to correct that deficiency and most importantly will accord the beneficiaries the full rights of other permanent residents of the United States—including the right to qualify for citizenship, which parolees do not have. With specific regard for the problems faced by Soviets who enter as parolees this fiscal year, our legislation proposes a retroactive adjustment of status to come under this new special immigrant category. We hope and request that Congress will give this legislation prompt and serious attention.

Fourth, on March 24 the President submitted a request for FY 1989 supplemental appropriations which includes $85 million for the refugee admissions program and $15 million for critical refugee assistance needs in Africa and Southeast Asia that I spoke of earlier. The $85 million for refugee admissions is expected to provide funding for the State Department costs for 28,500 persons. Added to the 84,000 refugee admissions which were funded in our FY 1989 appropriations, this could provide State Department funding for a new total of 112,500 refugee admissions.

Fifth, I would like to advise the subcommittee that the Department of State has commenced a comprehensive interagency policy review of the whole subject of Soviet emigration. When this has been completed, we will want to come to Congress to discuss our conclusions.

The **sixth** step is to engage in emergency consultations with Congress prior to a determination by the President to raise the FY 1989 admissions ceilings, and I am here today in fulfillment of the statutory requirement to present formally the President's proposal to raise the refugee admissions ceiling for FY 1989.

The President's Proposal

Pursuant to the procedures for emergency consultations which are set forth in Section 207 of the Immigration and Nationality Act, as amended, the Congress has been advised by letter of the President's proposal. Because this is a truly urgent matter, we appreciate the opportunity to discuss this proposal at today's hearing, in full recognition that the subcommittee has not had time to

study the proposal in detail. We intend that the requirement of the statute for in-person discussions by a cabinet officer representing the President will be met by a meeting to be arranged in the near future.

The President proposes that the refugee admissions ceiling for FY 1989 be raised from 94,000 to 116,500 and that the regional refugee admissions ceilings authorized under Presidential Determination No. 89-2 of October 5, 1988, would be modified to be as follows.

Africa	2,000
East Asia, First Asylum	28,000
East Asia, Orderly Departure Program	22,000
Eastern Europe/Soviet Union	50,000
Near East/South Asia	7,000
Latin America/Caribbean	3,500
Total	**112,500**

There would be a total of up to 112,500 admissions for which federal funding could be used, and the 4,000 numbers reserved for private-sector initiatives would be retained for a total of 116,500. This is an increase of 22,500 over the currently authorized 94,000 figure.

I would like to mention two specific effects of this proposal.

First, we are now proposing in our supplemental appropriations request to provide State Department funding for all refugee admissions within the 112,500 total. In other words, from the point of view of the State Department program, the 6,000 so-called semifunded numbers with which we began the fiscal year will now be fully funded.

Second, under the President's proposed new ceilings and the supplemental appropriations request we propose to restore 4,000 numbers from the December reallocation. The East Asia first-asylum regional ceiling will be restored to the original presidential determination levels—28,000. The Near East/South Asia regional ceiling will also be restored to the original level—7,000. For the Vietnam Orderly Departure Program, we propose to restore 2,500 numbers to a new level of 22,000 admissions compared to the original 25,000 ceiling. At this point in the fiscal year—taking into account actual and anticipated rates of departure from Vietnam as well as the numbers of U.S.-approved persons now in our training programs—it is most unlikely that more than 22,000 persons funded under this ceiling—which includes funding for Amerasian immigrants as well as refugees—could enter the United States this fiscal year. I regret to report that despite our continuing efforts, the Socialist Republic of Vietnam has not yet agreed to resume discussions on a program to permit resettlement of former reeducation center detainees through the Orderly Departure Program.

Consultations With Public and Private Agencies

As U.S. Coordinator, on March 30 I convened a meeting to obtain the views of the voluntary agencies, which have responsibility for overseas processing of refugees and for the early stages of their resettlement in the United States. The agencies were generally supportive of both the need for using the emergency provision to raise the admissions ceiling and the range of numbers presented to them (an increase of 20,000–25,000). They did, however, raise several particular issues: the need for additional numbers for East Europeans, for Pentecostal applicants from the Soviet Union, and for Armenians in the Near East region; the higher rate of rejection in the latest round of processing of Vietnamese Orderly Departure Program applicants; and the fear that any supplemental funding for Soviet admissions might result in diminished funds for other parts of the refugee program. I and representatives of the Department of State expressed concerns about the agencies' capacity to maintain quality and timeliness in processing higher numbers, especially in Europe, and again encouraged them to organize privately funded projects to support the 6,000 semifunded numbers, pending enactment of supplemental appropriations, and the use of humanitarian parole.

I also consulted with 25 representatives of state and local governments at a March 31 meeting. While generally recognizing the need for some increase in admissions, they pressed for a commensurate increase in domestic funding for the Department of Health and Human Services (HHS), and asked for detailed answers on what shape it might take, timeframes, the proportion of offsets to new funding that might be involved, and the consequences for the FY 1990 budget. They also asserted that it seemed the federal government was relying too much on the success of the matching grant program in its calculations of domestic need for both welfare and social services funding, pointing out recent surveys which showed that almost half of the refugees who had been in the matching grant programs in New York State were found to be using public welfare. The state and local representatives also voiced concerns about the effect of increased parole and regular immigration admissions—for which no domestic benefits are provided—on their financial ability to provide adequate resettlement support.

Representative Berman's Bill

We believe that the revised refugee admissions ceilings proposed by the President, if supported by the supplemental appropriations we have requested, will enable the United States to sustain our generous admissions programs for refugees from the Soviet Union and the rest of the world for the remainder of this fiscal year.

In presenting this proposal, we wish to give full credit to all of the Members of Congress and representatives from the private sector who have called for prompt action to address the rising tide of Soviet emigration and the shortage of refugee numbers and funding, including the chairmen and ranking members of the House Judiciary Committee and this subcommittee.

Mr. Berman has also been one of the leaders in this effort, and he has recently introduced legislation which would authorize an increase in the refugee admissions ceiling for FY 1989 by 28,000 numbers and which would transfer funds to pay for such admissions to the HHS Office of Refugee Resettlement and to the State Department's Emergency Refugee and Migration Assistance Fund. We note that the revised ceilings proposed in Mr. Berman's bill are very close to those being proposed by the President. Where Mr. Berman's bill would add an aggregate of 21,000 numbers for Eastern Europe and the Soviet Union—which I believe would result in a new total of 52,500 for that region—the President's proposal would bring the regional ceiling to 50,000. For the Vietnam Orderly Departure Program, Mr. Berman's bill adds 5,500 numbers, for a total of 25,000, where the President's proposal sets the revised Orderly Departure Program ceiling at 22,000, for reasons I have explained earlier. For East Asia first-asylum and for the Near East/South Asia region, the two proposals are identical.

With respect to the funding requirements for the State Department's programs, we believe that the amount requested in supplemental appropriations for refugee admissions, $85 million, is needed to fully fund the State Department costs for the proposed level of 112,500 funded admissions, rather than the $50 million proposed in this bill. We urge congressional approval of the Administration's request.

Representative Morrison's Bill

I would also like to comment briefly on the chairman's draft legislation, which

addresses both admissions ceilings and the question of eligibility of certain Soviet applicants. First, with respect to the numbers, this bill would set a subceiling for Soviet applicants for FY 1989 at 60,000—50,000 Soviet Jews and Pentecostals and 10,000 other Soviets—which compares with the President's proposal of approximately 43,500. (The President's proposal sets a regional ceiling for East European and Soviet refugees at 50,000.) Although we know that estimates of the rate of emigration from the Soviet Union vary, we believe that the President's proposal contains sufficient numbers to carry us through the current fiscal year. Moreover, we wish to adhere to the principle of alignment between the admissions ceilings and the availability of funding, as we failed to do last year, but as we have done in our supplemental appropriations request.

For FY 1990, we believe that the consultations process prescribed in the statute is the proper way to set the regional ceiling. In September, we will have more current information about Soviet emigration rates, and we will also be able to benefit from discussions between the Congress and the executive branch on the results of our policy review.

Your draft bill would also amend our immigration laws by exempting Soviet Jews and Pentecostals from the refugee definition. We share your objective of ensuring our nation's ability to continue generous resettlement of emigrants from the Soviet Union, and we share your special concern for Soviet Jews and Pentecostals. We believe that your draft legislation reflects a judgment that current law does not provide the United States with sufficient authorities to admit for permanent resettlement certain types of aliens who are of special humanitarian concern to the United States.

We have recognized that current law does not enable the United States to admit certain applicants of special humanitarian concern to the United States who do not meet the specific statutory criteria for immigrant visas or for refugee status. It is precisely to address that gap in current statutory authority that the Administration has proposed that new special immigrant category.

We believe the Administration's proposal has two advantages over your draft bill. First, by providing for consultations between the Congress and the executive branch, our bill gives the United States the flexibility to respond in future years to applicants of priority concern of different nationalities, including persons affected by events we cannot now foresee. Second, as a general principle, we believe our laws should accord benefits on the basis of needs in as equitable, nonpreferential a fashion as possible and should avoid the designation of specific groups.

We believe that the resettlement needs of the Soviet Jews and Pentecostals in FY 1990 and future years can be met by the combination of authorities which would exist under our proposed new legislation and the current refugee and immigrant visa categories. Although we cannot at this time project a number of Soviet admissions in FY 1990 under these combined authorities, under our proposal this number would be determined through two consultative processes—one on refugees and one on special immigrants—prior to the start of the new fiscal year. Prior to these consultations we will also be able to report on the results of our comprehensive review of Soviet emigration policy.

Furthermore, we do not favor legislation that would establish a presumption or confer automatic refugee eligibility on a particular group or groups of Soviet applicants. We support neutral decisionmaking under a uniform worldwide standard as contemplated by the Refugee Act of 1980.

Last August the Department of Justice and INS, who have the legal responsibility for implementing the Refugee Act and adjudicating refugee applications, reaffirmed that the statute requires refugee applications to be judged on a case-by-case basis, through individual interviews, and based on uniform, worldwide standards. The Department of State supports the policy of the Attorney General and believes that INS should apply the definition contained in the Refugee Act properly and consistently to all refugee applicants, including Soviets.

Nonetheless, we are deeply concerned about the plight of the many Soviets who undoubtedly have been persecuted or have a well-founded fear of persecution and who qualify as refugees. We are concerned at the current high level of denial rates in Rome, as well as in the Vietnam Orderly Departure Program. We will assist INS in every way possible to ensure that INS interviewers have available all necessary information concerning conditions in the Soviet Union, including the treatment of the various religious and ethnic groups in the applicant pool. We hope that, through these efforts and proper application of the law, we can ensure that those who are refugees will be recognized as such for admission into the United States.■

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